

**SETTLEMENT AGREEMENT BETWEEN THE MISSOURI
STATE BOARD OF REGISTRATION FOR THE HEALING ARTS
AND MICHAEL S. DUFFY, D.O.**

Come now Michael S. Duffy, D.O., (hereinafter the "Licensee") and the State Board of Registration for the Healing Arts (hereinafter the "Board") and enter into this agreement for the purpose of resolving the question of whether Dr. Duffy's license as a physician and surgeon will be subject to discipline. Licensee and the Board jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo.

Licensee acknowledges that he understands the various rights and privileges afforded by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges against him proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against him; the right to present evidence on his own behalf; the right to a decision based upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against the Licensee; and subsequently, the right to a disciplinary hearing before the Board at which time evidence may be presented in mitigation of discipline. Having been advised of these rights provided to the Licensee by operation of law, the Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this agreement and agrees to abide by the

terms of this document as they pertain to him.

The Licensee acknowledges that he has the right to, at the time this agreement is effective or within fifteen days thereafter, submit this agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for discipline of the Licensee's license. The Licensee hereby waives his right to submit this agreement to the Administrative Hearing Commission.

The Licensee acknowledges that he has been informed of his right to consult legal counsel in this matter.

The parties stipulate and agree that the disciplinary order agreed to by the Board and the Licensee in Part III herein is based only on the agreement set out in Parts I and II herein, and the Board will dismiss its Amended Petition AHC Case #07-0016HA.

I. JOINT STIPULATION OF FACTS

Based upon the foregoing, the Board and the Licensee herein jointly stipulate to the following:

5. The State Board of Registration for the Healing Arts is an agency of the State of Missouri created and established pursuant to §334.120, for the purpose of executing and enforcing the provisions of Chapter 334, RSMo.

6. The Licensee is licensed by the Board as a physician and surgeon, License Number 106545. Licensee's license was current and active at all times

relevant herein.

7. The Licensee employed physicians, nurses and others at various times from 2001-2006 in his medical practice in Missouri.

8. Arby Trollinger was an individual employed by the Licensee.

9. Licensee failed to consistently maintain a written collaborative practice agreement and relationship with Trollinger, which was compliant with the Missouri statutory and regulatory requirements for such written agreement.

10. By entering into a collaborative practice agreement and relationship but without consistently maintaining appropriate documentation of such relationship, the Licensee has conducted himself in a manner that constitutes a cause for the Board to discipline the Licensee's license pursuant to §334.100.2(5), RSMo.

11. Licensee failed to properly supervise and maintain records of his employees' activity in servicing group homes and nursing homes related to his duties as a group home or nursing home physician having responsibility for the primary care of patients at those facilities.

12. Licensee delegated his professional responsibilities to persons without maintaining sufficient records regarding their training, skill, competency, experience or licensure to perform such responsibilities.

II. JOINT CONCLUSIONS OF LAW

13. Cause exists to discipline Licensee's license pursuant to Section

334.100.2(5), RSMo, which states:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

....

(5) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public; or incompetency, gross negligence or repeated negligence in the performance of the functions or duties of any profession licensed or regulated by this chapter. For the purposes of this subdivision, "repeated negligence" means the failure, on more than one occasion, to use that degree of skill and learning ordinarily used under the same or similar circumstances by the member of the applicant's or licensee's profession;

....

14. The Licensee's conduct, as established by the foregoing facts, falls within the intendments of § 334.100.2(5), RSMo.

15. Cause exists for the Board to take disciplinary action against the Licensee's license under § 334.100.2(5), RSMo.

III. JOINT AGREEMENT ON DISCIPLINE

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of §621.110 RSMo 2000. This agreement, including the

disciplinary order, will be effective immediately on the date entered and finalized by the Board. The following are the terms of the disciplinary order:

16. License number 106545, issued by the Board to the Licensee, is hereby surrendered by Licensee in lieu of discipline.

17. The parties agree that the following description will be submitted to the National Practitioner Data Bank as part of the Board's reporting to such system under the Health Care Quality Improvement Act of 1986 and as amended:

"Physician surrendered MO license by agreement in September 2008 with state Board in lieu of discipline and without evidentiary hearing. Licensee failed to properly supervise and maintain records of his employees' activity in servicing group homes and nursing homes and to maintain records regarding training, skill, competency, experience or licensure of assistants to whom he delegated authority. Licensee failed to have a collaborative practice agreement in place for a nurse in his employ as required by Missouri statute.

18. License number 106545 at the time of the execution of this agreement had expired as of January 31, 2008 due to nonrenewal. Under the provisions of Section 334.100.2, R.S.Mo. 2000, the Board retains jurisdiction to discipline Licensee's Missouri medical license even though Licensee's license has lapsed due to nonrenewal.

19. Licensee will not submit either a late renewal form or late

registration form.

20. Licensee shall be required to submit full application for licensure should he desire to obtain a license to practice medicine again in the State of Missouri.

21. If the Licensee is licensed in other jurisdictions, then he shall notify, in writing, the medical licensing authorities of those jurisdictions, within fifteen (15) days of the effective date of this settlement agreement, of the Licensee's disciplinary status in Missouri. The Licensee shall forward a copy of this written notice to the Board contemporaneously with sending it to the relevant licensing authority. The Licensee's disciplinary status in Missouri shall be reported as "license surrendered in lieu of discipline."

22. For purposes of this agreement, unless otherwise specified in this agreement, all reports, documentation, evaluations, notices, or other materials required to be submitted to the Board in this agreement shall be forwarded to The State Board of Registration for the Healing Arts, Attention: Investigations, P.O. Box 4, Jefferson City, Missouri 65102.

23. No additional order shall be entered by this Board pursuant to the preceding paragraph of this agreement without notice and an opportunity for hearing before this Board as a contested case in accordance with the provisions of Chapter 536, RSMo.

24. In consideration of the foregoing, the parties consent to the above

and the Board will take immediate steps toward termination of any further proceedings based upon the facts alleged in AHC case #07-0016HA.

LICENSEE

BOARD

Michael S. Duffy, D.O.
Michael S. Duffy, D.O.
Date 10/02/08

Tina Steinman
Tina Steinman

Executive Director

Elizabeth A. Marr
Elizabeth A. Marr
Date 10/17/2008
Missouri Bar No. 30594

Glenn Bradford
Glenn Bradford
Missouri Bar No. 27396

EFFECTIVE THIS 28 DAY OF October, 2008.